

REMARKS

The Office Action states that the application contains claims directed to the following patentably distinct species of the claimed invention. A first species is a pacemaker for determining capture comprising a controller programmed to record a test electrocardiogram and compare the test electrogram with a template electrogram representing capture of the heart to determine if capture has been achieved. The second species is a system for determining capture comprising a pacemaker and an external programmer where the external programmer comprises a controller programmed to record a test electrocardiogram and compare the test electrogram with a template electrogram representing capture of the heart to determine if capture has been achieved.

The office action states that the applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted. Accordingly, applicant has cancelled claims 1-14, 34 and 36 without prejudice or disclaimer herein. Applicant believes that the remaining claims 15-33 and 35 read on the second species noted above.

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/003718

Filing Date: October 26, 2001

Title: METHOD AND APPARATUS FOR CAPTURE VERIFICATION AND THRESHOLD DETERMINATION

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Dkt: 279.405US1

Conclusion

Claims 1-14, 34 and 36 are hereby cancelled without prejudice or disclaimer. Claims 15-33 and 35 are now pending. Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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4/12/04

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of April, 2004.

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